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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,000	12/20/2001	Christopher R. Haczynski	072063.00001	1836

7590

11/19/2002

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EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,000

Applicant(s)

HACZYNSKI ET AL.

Examiner

Carlos Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/29/01
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "71" has been used to designate as an axial mating hole (Page 5 Line 27), a teeth (Page 7 Line 8) and a tumbler (Page 7 Line 13).
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "71" has been used to designate both as an axial mating hole (Figure 2) and as a radially varying teeth (Figures 13 and 14).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC
(See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE

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APPENDIX" (See MPEP § 608.05(a). The Office accepted "Microfiche Appendices" until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The specification is objected to because of the following informalities:

- Page 6, it is unclear the purpose and the relations of the flat surface with each tumbler to obtain a number and the purpose of the table at Page 6.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. **Claims 1-8 and 10 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the knob portion" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the circumferential surface" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the nose portion" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the knob and dial recess" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the knob portion" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the circumferential surface" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the nose portion" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the knob and dial recess" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the knob recess" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the identically shaped radially varying formations" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the knob recess" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the knob recess" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 10, the phrase "equal to or greater than" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those

encompassed by "or"), thereby rendering the scope of the claim(s) unascertainable.

See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 1-7 and 9 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,170,884 to Calegan.

Regarding claims 1-4 and 9, Calegan discloses the combination of a bottom tumbler and nose element (37 and 50) and a knob and dial element (16).

The knob and dial element comprises a knob portion having an axially extending female recess (51).

The bottom tumbler and nose element comprises a nose portion (50) that is inserted into the female recess.

However, Calegan fails to disclose that the female recess has a plurality of varying formations symmetrically disposed around the circumferential surface of the recess that will mate with a plurality of varying formations symmetrically disposed around the circumferential surface of the nose portion.

Calegan disclose that the female recess has a cylindrical surface that mate with the cylindrical surface of the nose portion. However, Calegan also disclose that the

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nose portion could have a flat surface that engages a similar flat surface in the female recess (Col. 4 Lines 3-5).

Applicant is reminded that the duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have more than one flat surface or varying formation because it is considered a design choice that will not affect the engagement of the female recess and the nose portion.

As to claims 5 and 6, Calegan discloses that the knob and dial element (16) and the bottom tumbler and nose element (37 and 50) are integrally formed.

As to claim 7, Calegan discloses that the combination further includes means (52 and 53) for permanently affix the knob recess to the tumbler nose.

9. **Claim 8 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,170,884 to Calegan in view of US Pat No 252,336 to Thurman.

Calegan fails to disclose the use of a rivet to permanently affix the knob recess to the tumbler nose.

Thurman teaches that is known in the art to use a rivet (g') to permanently affix the knob recess to the tumbler nose.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a rivet, as taught by Thurman, into a combination as

described by Calegan, in order to permanently affix the knob recess to the tumbler nose.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,170,884 to Calegan in view of US Pat No 5,522,243 to Kusmiss.

Calegan discloses that the dial is marked with a predetermined number of indicia (numbers).

However, Calegan fails to disclose that the predetermined number of indicia is equal or greater than the number of positions of the elements.

Kusmiss teaches that is known in the art to have a predetermined number of indicia equal or greater than the number of positions of the elements (Col. 5 Lines 48-55).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a dial element, as taught by Kusmiss, into a combination as described by Calegan, in order to have a more numbers to use and more combination options.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited further show the state of the art with respect to combination locks.

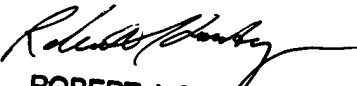
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo. The examiner phone number is (703)-305-9747. The fax number for correspondence before a final action is (703)-872-

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9326 and the fax number for correspondence after final action is (703)-872-9327.

The email direction of the examiner is carlos.lugo@uspto.gov. The examiner can normally be reached on Monday to Friday from 9:30am to 6:30pm (EST). If the examiner is not available, please leave a message, including the application number and the examiner will answer the message as soon as possible.

November 2, 2002


ROBERT J. SANDY
PRIMARY EXAMINER